



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/867,622	05/31/2001	Shunichi Nagamoto	2001_0688A	7182

513 7590 04/17/2006

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON, DC 20006-1021

EXAMINER

GOTTSCALK, MARTIN A

ART UNIT	PAPER NUMBER
----------	--------------

3626

DATE MAILED: 04/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/867,622	NAGAMOTO ET AL.	
	Examiner	Art Unit	
	Martin A. Gottschalk	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 13-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/16/2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>09/12/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice to Applicant

1. Claims 1-11 and 13-36 remain pending. All have been amended. Claim 12 has been cancelled.

Specification

2. As per the submission of a substitute abstract, the objections to the abstract made in the first Office Action are hereby withdrawn.

3. The submission of a substitute specification, both a clean copy and a marked up copy, incorporating changes that rectify grammatical and idiomatic errors without adding new matter is hereby acknowledged.

Claim Rejections - 35 USC § 112

4. As per the amendments to the claims, the rejections of claims 1-11 and 13-36 made in the first Office Action under the second paragraph of 35 U.S.C. 112 are hereby withdrawn.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3626

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 1-11 and 13-36 are rejected under 35 U.S.C. 102(b) as being unpatentable over Surwit et al (US Pat# 6,024,699) in view of Vogt et al (US Pat# 4,470,047).

A. As per claim 1, Surwit discloses a medical checkup network system comprising:

a patient terminal for measuring predetermined biodata of each patient (Surwit: Fig. 2; col 8, lns 18-36) including at least one of a blood pressure and a body temperature (Surwit: col 7, lns 42-44);

a center server for storing the biodata measured by the patient terminal (Surwit: col 9, lns 23-27; Fig. 1, item 14); and

a doctor terminal through which medical staff is enabled to view the biodata stored in said center server to conduct a diagnosis (Surwit: col 9, Ins 50-58; Fig. 1, item 16), wherein;

said patient terminal, said doctor terminal, and said center server are connected with each other over a communication network (Surwit: col 9, Ins 31-34; Fig. 1, item 17);

said center server includes a section for receiving and storing the sensitivity level determined by said sensitivity setting section of said doctor terminal (Surwit: col 8, Ins 47-53 teaches sending sensitivity levels to the PAC server – i.e. center server; col 9, Ins 50-58 teaches PAC server storing data. See also col 11, Ins 24-30 which disclose a case manager – i.e. doctor terminal – transmitting to the PAC server.);

said patient terminal includes a section for communicating with said center server to receive the sensitivity level and modifying the sensitivity of the sensor based on the received sensitivity level (Surwit: col 7, Ins 47-60, note “Automated... adjustment algorithms... are stored within each patient’s PPM...” see also Surwit: col 8, Ins 21-25 and Ins 47-53 which teaches communication with the PAC server and remote adjustment of algorithms by a case manager.).

Surwit further discloses

said doctor terminal includes a sensitivity setting section (Surwit: col 11, Ins 25-30 which disclose a case manager – i.e. via a doctor terminal - remotely modifying algorithms residing in the patients PPM) for determining a level of sensitivity for receiving, at said patient terminal, a signal output from a sensor (Surwit: col 16, Ins 40-57, in particular Ins 50-53. Note that the passage describes an example of the operation of the disclosed system using a particular type of sensor - i.e. one for blood glucose - and that other sensors could be used in comparable fashion such as the body temperature sensor cited above. Note further the example provided of a patient with condition B, i.e. hypoglycemia, where this sensor is used to detect the presence of hypoglycemia, thus the Examiner points out that the blood glucose detector can also be considered to be a hypoglycemia sensor. The passage further points out that the “frequency” parameter is a type of sensitivity for this sensor. In other words, in order to detect hypoglycemia, the frequency <i.e. sensitivity> must be set high enough. If the frequency <i.e. sensitivity> is too low, the detection of hypoglycemia by the hypoglycemia sensor would fail to occur. In the case provided in the passage, the patient is monitored at an adequate frequency, thus this hypoglycemia sensitivity parameter need not be adjusted. Note that if the converse situation existed, i.e. higher sensitivity was required, the passage discloses that this alteration is done at the doctor terminal - reads on “...patient parameters are

inherited from the doctor..." – i.e. the doctor is providing the parameters, note
Ins 54-55 from the cited passage.).

Surwit fails to explicitly disclose setting, at said doctor terminal, the
sensitivity of detection of a physical parameter by a sensor whereby after sensing
the physical parameter, the sensor provides a signal output to said patient
terminal.

However, this feature is well known in the art as evidenced by the
teachings of Vogt who discloses a sensor for detecting fire or products of
combustion (Vogt: col 2, Ins 62-66; col 29, Ins 30-45, patient terminal reads on
"transponder"), where the sensitivity of the sensor is continuously monitored at a
controller (read on by doctor terminal), and where the sensitivity adjustment for
the remotely located sensor (reads on "transducer") is performed at the
controller.

It would have been obvious to one of ordinary skill in the art at the time of
the invention to incorporate the teachings of Vogt into the system of Surwit with
the motivation of providing adjustable sensitivity to a sensor that is remote from
its controller (Vogt: col 1, Ins 13-35; col 2, Ins 20-25).

B. As per claim 2, Surwit discloses a medical checkup network system comprising:

a doctor terminal for entering predetermined medical support data including at least one of advice data and schedule data to a patient (Surwit: col 11, Ins 24-33; Fig. 1, item 16);

a center server for storing the medical support data entered through said doctor terminal (Surwit: col 11, Ins 24-33; Fig. 1, item 14);

and

a patient terminal for displaying the medical support data received from said center server, wherein (Surwit: Fig. 2; col 8, Ins 47-55);

said patient terminal, said doctor terminal, and said center server are connected with each other over a communication network (Surwit: col 9, Ins 31-34; Fig. 1, item 17);

said doctor terminal includes a sensitivity setting section for determining a level of sensitivity for receiving, at said patient terminal, a signal output from a sensor (see the rejection for the "said doctor terminal" limitation for claim 1 above);

Art Unit: 3626

said center server includes a section for receiving and storing the sensitivity level determined by said sensitivity setting section of said doctor terminal (see the rejection for the "said center server" limitation for claim 1 above);

and

said patient terminal includes a section for communicating with said center server to receive the sensitivity level and modifying the sensitivity of the sensor based on the received sensitivity level (see the rejection for the "said patient terminal" limitation for claim 1 above).

C. The amendment to claims 3-11 and 16-36 appear to have been made to correct the deficiencies addressed in the 112 second paragraph rejections in the first Office Action, but otherwise do not affect the manner in which the claim was interpreted by the Examiner when applying prior art within the previous Office Action. In particular the Examiner notes the use of the phrase "...operable to..." to amend claims 5-9, 19, 30-33, and 35, and does not consider this to alter the way in which the prior art was applied in their original rejection.

As such, the recited claim features of claims 3-11 and 16-36 are rejected for the same reasons given in the first Office Action, and incorporated herein.

Response to Arguments

Art Unit: 3626

8. Applicant's arguments filed 12/16/2005 have been fully considered but they are not persuasive.

9. In the response of 12/16/2005, in the Remarks section, on page 17, last paragraph and page 18, first paragraph, Applicant appears to argue that the applied reference does not teach a particular feature of Applicant's amended claims, namely the sensor sensitivity level setting process performed at the doctor terminal. Applicant is directed to the rejection of claim 1 above where the Examiner has provided further citations and explanations directed to this feature from the original applied reference, and has additionally introduced new grounds of rejection necessitated by amendment, thus rendering this argument moot.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 3626

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Martin A. Gottschalk whose telephone number is (571) 272-7030. The examiner can normally be reached on Mon - Fri 8:30 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MG
03/03/2006



JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER